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May 24, 2022

VIA ELECTRONIC FILING

The Honorable Brian M. Cogan
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: **Pedro Martinez v. Astro Gallery of Gems, Inc.**
Case No. 21-cv-6530-BMC
Discovery Dispute – Request for Pre-Motion Conference

Dear Judge Cogan:

I represent the Plaintiff in the above-referenced matter. This letter is NOT a joint letter because defendant's counsel refused to provide any input.

On April 15, 2022, Plaintiff served Defendant's counsel with (i) Plaintiff's First Request for Admissions; (ii) Plaintiff's First Set of Interrogatories; and (iii) Plaintiff's First Request for Production of Documents ("Plaintiff's Discovery Demands"). Responses were due on May 15, 2022. No responses have been received and no requests for additional time to respond has been made. Furthermore, Defendant has never provided its initial disclosures pursuant to Rule 26(a)(1).

In accordance with Local Civil Rule 37.3 ("Rule 37.3"), Plaintiff's counsel made the following attempts to confer in good faith by telephone with Defendant's counsel:

1. On May 16, 2022, I sent an email to Michael Wainstein at 11:29 a.m. to mw@privatecg.com advising him that I never received Defendant's Rule 26(a)(1) disclosures which were due April 15, 2022;
2. On May 17, 2022, I sent an email to Michael Wainstein at 8:51 a.m. to mw@privatecg.com advising him that I still have not received the Rule 26(a)(1) disclosures and that I did not receive responses to Plaintiff's Discovery Demands. I further advised Mr. Wainstein of the requirements to confer pursuant to Rule 37.3 and asked him to provide me with his availability to discuss.
3. On May 18, 2022, I sent an email to Michael Wainstein at 9:55 a.m. to mw@privatecg.com advising him that I did not hear back and asking for a convenient time to confer pursuant to Rule 37.3.

4. On May 19, 2022, I sent a text to Michael Wainstein asking him when we can confer. He responded Monday at 10:00 a.m. I advised him to call me. He never called.
5. On May 23, 2022, I sent an email to Michael Wainstein at 4:21 p.m. to mw@privatecg.com with a copy of this letter (minus this paragraph 5) asking him for any input. No response has been received.

Upon information and belief, the email mw@privatecg.com is a functioning email as on May 16, 2022, I received Defendant's Reply to Plaintiff's opposition to the motion to dismiss from this email and have previously communicated with Mr. Wainstein through this email.

Plaintiff respectfully requests that your Honor schedule a pre-motion conference to deal with this dispute.

Thank you for your consideration.

Respectfully submitted,
/s/ Dan Shaked
Dan Shaked, Esq.

cc: Michael Wainstein, Esq. (by email)